

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re: CHRISTOPHER ROBERTS KELLY Debtor.))))))	Case No. 18-07868 Chapter 11 Judge Walker
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U.S. TRUSTEE’S MOTION TO CONVERT

The U.S. Trustee, Region 8, moves the Court for an order pursuant to 11 U.S.C. § 1112(b)(1) to convert this Chapter 11 case, or in the alternative, to dismiss this case. This motion is excluded from Local Rule 9013 and, pursuant to 11 U.S.C. § 1112(b)(3), the U.S. Trustee requests a hearing date as soon as possible, and not later than 30 days after the filing date of this motion. In support of this Motion, the U.S. Trustee asserts as follows:

1. This Court has jurisdiction to hear and determine this Motion pursuant to 28 U.S.C. § 157(b)(2)(A).
2. Pursuant to 28 U.S.C. § 586(a)(3)(G), the U.S. Trustee is charged with monitoring the progress of cases under the Bankruptcy Code and taking such actions as the U.S. Trustee deems appropriate to prevent undue delay in such progress. The U.S. Trustee has standing to be heard on this Motion to Convert pursuant to 11 U.S.C. § 307.
3. On November 26, 2018, Christopher Roberts Kelly (“Debtor”) filed a bankruptcy petition seeking relief under Chapter 11 of the Bankruptcy Code.
4. Although the U.S. Trustee explained to Debtor at the Initial Debtor Interview that operating reports are due the 15th day of the following month, Debtor has not filed December 2018, January, June and July 2019 monthly operating reports. As a result, the U.S. Trustee, the Court or his creditors are unable to properly monitor Debtor’s dealings in bankruptcy.

5. Debtor has also failed to pay his U.S. Trustee quarterly fees for the first and second quarters of 2019 in the amount of \$1,300.

6. Section 1112(b)(1) of the Bankruptcy Code mandates that the bankruptcy court convert or dismiss a chapter 11 case, whichever is in the best interests of creditors and the estate, if the movant establishes cause. *In re V Companies*, 274 B.R. 721, 740 (Bankr. N.D. Ohio 2002). Section 1112(b)(4) of the Bankruptcy Code fails to define the term “cause,” but provides a non-exclusive list of circumstances that constitute “cause” for conversion or dismissal. *In re Fall*, 405 B.R. 863, 867 (Bankr. N.D. Ohio 2009). Cause includes failure to timely file monthly operating reports and pay quarterly fees. 11 U.S.C. § 1112(b)(4)(F) & (K).

7. Cause exists in this case because Debtor has repeatedly failed to file timely operating reports or pay quarterly fees as detailed above. 11 U.S.C. § 1112(b)(4)(F)&(K).

8. As the docket reflects that there may be significant equity in Debtor’s assets, conversion appears to be in the best interest of its creditors. In the alternative, the U.S. Trustee requests that this case be dismissed.

9. The U.S. Trustee also requests that Debtor’s counsel file his fee application within 30 days.

WHEREFORE, the U.S. Trustee respectfully requests that the Court enter an Order converting Debtor's case and requiring counsel to file a fee application within 30 days, and other such other relief as may be appropriate.

Respectfully submitted,

PAUL RANDOLPH,
ACTING US TRUSTEE, REGION 8

/s/ Natalie Cox
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CERTIFICATE OF SERVICE

I certify that on August 29, 2019, a copy of the foregoing document was sent electronically to registered ECF users and by first class mail, postage prepaid, to the entities listed on the attached mailing matrix:

/s/ Terri Whitman
TERRI WHITMAN

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Case 3:18-bk-07868
MIDDLE DISTRICT OF TENNESSEE
Nashville
Wed Aug 28 15:41:14 CDT 2019

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